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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/836,625 04/16/2001		Bruce J. Roser	263742000201	7829	
25226 75	90 11/17/2003		EXAMINER		
MORRISON & FOERSTER LLP 755 PAGE MILL RD			DAVIS, MINH TAM B		
PALO ALTO, CA 94304-1018			ART UNIT	PAPER NUMBER	
,			1642	110	
			DATE MAILED: 11/17/2003	19	

Please find below and/or attached an Office communication concerning this application or proceeding.

	-	Application	on No.	Applicant(s)			
Office Action Summary		09/836,62	25	ROSER ET AL.			
		Examiner		Art Unit			
	<u> </u>	MINH-TAN		1642			
	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
THE I - Exter after - If the - If NO - Failu - Any r	ORTENED STATUTORY PERIOD FOR REP MAILING DATE OF THIS COMMUNICATION asions of time may be available under the provisions of 37 CFR 1 SIX (6) MONTHS from the mailing date of this communication. Period for reply specified above is less than thirty (30) days, a reperiod for reply is specified above, the maximum statutory perion reto reply within the set or extended period for reply will, by statuely received by the Office later than three months after the mailed patent term adjustment. See 37 CFR 1.704(b).	I. 1.136(a). In no even bely within the state of will apply and wi ute, cause the appl	ent, however, may a reply be timutory minimum of thirty (30) days II expire SIX (6) MONTHS from ication to become ABANDONEI	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).			
1)⊠	Responsive to communication(s) filed on <u>05</u>	September 2	<u>2003</u> .				
2a)⊠	This action is FINAL . 2b) Thi	is action is no	on-final.				
3)□	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Dispositi	on of Claims		,				
4)⊠	4)⊠ Claim(s) <u>48,50 and 52-54</u> is/are pending in the application.						
	4a) Of the above claim(s) is/are withdrawn from consideration.						
5)□	5) Claim(s) is/are allowed.						
6)⊠	6)⊠ Claim(s) <u>48,50 and 52-54</u> is/are rejected.						
· · · · · · · · · · · · · · · · · · ·) Claim(s) is/are objected to.						
8)∐	Claim(s) are subject to restriction and	or election re	equirement.				
Applicati	on Papers						
9)[The specification is objected to by the Examir	ner.					
10)	The drawing(s) filed on is/are: a) \square ac	ccepted or b)	\square objected to by the E	Examiner.			
	Applicant may not request that any objection to the	ne drawing(s) b	e held in abeyance. See	37 CFR 1.85(a).			
	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
	Priority under 35 U.S.C. §§ 119 and 120						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. a) The translation of the foreign language provisional application has been received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. 							
Attachmen				(27.2.44.2)			
2) Notic	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s))		(PTO-413) Paper No(s) atent Application (PTO-152)			



Art Unit: 1642

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Accordingly, claims 48, 50, 52-54 are being examined.

The following are the remaining rejections.

REJECTION UNDER 35 USC 112, FIRST PARAGRAPH, NEW MATTER

Rejection under 35 USC 112, first paragraph of claims 48, 50, 52-54 pertaining to new matter remains for reasons already of record in paper No.11.

Applicant asserts that the specification discloses the effectiveness of 10%, 15% and 30% of trehalose in preventing aggregation.

Applicant asserts that the dictionary meaning of the term "at least" is "at the minimum", and thus specifying the minimal amounts of trehalose required for effectiveness in terms of "at least" 10%, 15% or 30% is proper as it would have been understood as minimum concentrations by one of skill in the art.

Applicant 's arguments set forth in paper No.12 have been considered but are not deemed to be persuasive for the following reasons:

It is noted that "at least" reads on "at the minimum", which is at any concentration above 10%, provided the minimum is 10%.

The specification lacks support for any effective concentration above 10%, for example 100-2000% trehalose.



Art Unit: 1642

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-TAM DAVIS whose telephone number is 703-305-2008. The examiner can normally be reached on 9:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANTHONY CAPUTA can be reached on 703-308-3995. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0916.

Application/Control Number: 09/836,625

Art Unit: 1642

MINH TAM DAVIS

PATENT EXAMINER

November 14, 2003

SUSAN UNGAR, PH.D PRIMARY EXAMINER

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